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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,534	09/10/2001	Robert Alan D. Brash	U013501-7	4992

7590 06/23/2003

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EXAMINER

FULLER, RODNEY EVAN

ART UNIT

PAPER NUMBER

2851

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/857,534

Applicant(s)

BRASH ET AL.

Examiner

Rodney E Fuller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### *Claim Objections*

1. Claims 5, 7, 10 and 13-15 are objected to because of the following informalities:
  - a. In claim 5 and 10, the word "paris" appears to be a typographical error.
  - b. In claims 7 and 13-15, the word "aproximately" appears to be a typographical error.
  - c. Claims 12 and 14 depend from claim 5 and therefore include the deficiencies of claim 5.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Partnership (EP-0-305-107-A2).

Regarding claim 1, Partnership discloses "a body scanning equipment (column 1, lines 1  
2) including one set of apparatus located to scan a portion of a body (column 10, line 27), said

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set of apparatus comprising scanning means (column 1, line 28), reflector means (column 2, line 13) associated with said scanning means, said reflector means including first and second reflectors spaced on opposing sides of said scanning means for directing radiant energy from opposing sides of said body (Fig. 8b, ref.#s 53, 54), and switchable reflector means (Fig. 8b, ref.# 46, 52) for directing radiant energy alternately between said scanning means and said first and second reflectors whereby substantially a 180 deg scan (Fig. 8b, dashed lines) of said body may be made.”

Regarding claim 2, Partnership discloses “wherein two sets of apparatus are provided.” (Fig. 5, ref.# 8)

Regarding claim 3, Partnership discloses “a body scanning equipment including two sets of apparatus located to scan opposing front and rear portions of a body to be scanned and each set of apparatus comprising scanning means (column 1, line 28), reflector means (column 2, line 13) associated with each scanning means, each said reflector means including first and second reflectors spaced on opposing sides of said scanning means for directing radiant energy from opposing sides of said body (Fig. 8b, ref.# 53, 54), and switchable reflector means for directing radiant energy alternately between said scanning means and said first and second reflectors, whereby a complete 360 deg scan (column 11, line 55) of said body may be made.”

Regarding claim 4, Partnership discloses “wherein scanning means comprises a camera (column 2, line 27) having a viewing axis and an illumination means having an illumination axis which is offset from said camera viewing axis.”

Regarding claims 5 and 10, Partnership discloses “wherein two pairs of sets of apparatus (Fig. 5, ref.# 8) are provided, each pair being located in a different elevational position with

respect to said body so that each pair is able to scan a whole portion of a body and the elevational location of the pairs being arranged such that a complete body may be scanned (column 11, line 55)."

Regarding claims 6, 11 and 12, Partnership discloses "wherein said first and second reflectors and said switchable reflector means are each formed by a respective mirror." (Fig. 8b, ref.# 46, 52, 53, 54)

Regarding claims 7 and 13-15, Partnership discloses "wherein said sets of apparatus are mounted in a booth, typically approximately 2 metres square and about 2.4 metres high." (Fig. 11a, 11b)

Regarding claim 8, Partnership discloses "wherein each scanning means provides an output signal to processor means including means for computing surface data from images received from each opposing side of said body, means for producing aligned data from said surface data, means for producing a signal from said aligned data indicative of the surfaces of said body joined together through 360 deg, and means for calculating surface measurements derived from said means for producing." (column 1, lines 43-46, 50-52; abstract, lines 16-21)

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Partnership (EP-0-305-107-A2) in view of Minsky (US 5,956,525).

Partnership discloses all the structure set forth in the claims except for "wherein said means for calculating is connected to a numerically controlled garment cutting machine which may in turn be connected to an automated garment assembly apparatus." However, connecting a body scanning apparatus (and associated means for calculating) "to a numerically controlled garment cutting machine which may in turn be connected to an automated garment assembly apparatus" is routine in the art as is evident from the teaching of Minsky (See Abstract). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Partnership by "wherein said means for calculating is connected to a numerically controlled garment cutting machine which may in turn be connected to an automated garment assembly apparatus." The ordinary artisan would have been motivated to modify partnership in the manner described above to reduce the cost of producing custom fitting clothing as noted by Minsky in column 3, lines 3-5.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Geng (US 6,028,672), Horiguchi, et al. (US 5,850,290), Usami, et al. (US 4,982,438), Huguenin, et al. (US 5,073,782), and Xenakis (US 3,383,770) each disclose a body scanning apparatus.

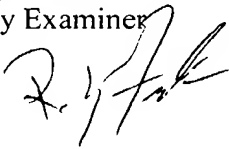
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney Fuller whose telephone number is (703) 306-5641. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams, can be reached on (703) 308-2847.

Rodney Fuller  
Primary Examiner

A handwritten signature in black ink, appearing to read 'R. Fuller', is written over the printed name of the primary examiner.

June 17, 2003